

**IN THE
UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

IN RE TERRANCE M. LOWERY, DEBTOR.	EASTERN DIVISION HON. DEBORAH L. THORNE CASE No. 18-BK-27587 CHAPTER 13 HEARING DATE: JUNE 30, 2021 HEARING TIME: 1:30 P.M.
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NOTICE OF MOTION

TO: See attached list

PLEASE TAKE NOTICE that on June 30, 2021, at 1:30 p.m. I will appear before the Honorable Deborah L. Thorne, or any judge sitting in that judge's place, and present the City of Chicago's Motion to Modify Plan, a copy of which is attached.

This motion will be presented and heard electronically using Zoom for Government. No personal appearance in court is necessary or permitted. To appear and be heard on the motion, you must do the following:

To appear by video, use this link: <https://www.zoomgov.com/>. Then enter the meeting ID.

To appear by telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID.

Meeting ID. The meeting ID for this hearing is **160 9362 172**. The meeting ID can also be found on the judge's page on the court's web site.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without a hearing.

Dated: June 9, 2021

Respectfully submitted,

THE CITY OF CHICAGO

Celia Meza
Acting Corporation Counsel

By: /s/ Charles A. King
Asst. Corporation Counsel - Senior

Celia Meza
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SERVICE LIST

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Riverside Commerce Center
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Norfolk, VA 23502-4952

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3701 Winchester Road
Springfield, IL 62707-9700

Wells Fargo Bank, N.A.
320 Default Document Processing
N9286-01Y
1000 Blue Gentian Road
Eagan, MN 55121-7700

CERTIFICATE OF SERVICE

I, Charles A. King, an attorney, hereby certify that on June 9, 2021, I caused a copy of the attached City of Chicago's Motion to Modify Plan to be served via the court's electronic noticing system for Registrants on those designated to receive such service, and on other parties via First Class U.S. Mail, as provided on the foregoing Service List.

/s/ Charles A. King

**IN THE
UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

IN RE TERRANCE M. LOWERY, DEBTOR.	EASTERN DIVISION HON. DEBORAH L. THORNE CASE No. 18-BK-27587 CHAPTER 13 HEARING DATE: JUNE 30, 2021 HEARING TIME: 1:30 P.M.
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CITY OF CHICAGO’S MOTION TO MODIFY PLAN

The City of Chicago (“City”) by and through its counsel, move this honorable Court for entry of an order pursuant to 11 U.S.C. § 1329 and FRBP 3015, modifying the confirmed plan. In support thereof the City states as follows:

On October 1, 2018, Terrance M. Lowery (“Debtor”) filed for relief under chapter 13 of the Bankruptcy Code, 11 U.S.C. § 101 *et seq.* (“Code”). The City of Chicago (“City”) has both secured and unsecured claims against the Debtor. See Claims Register 5-1 (secured claim for water utility service) and 3-1 (unsecured claim).

On December 19, 2018, the court entered an order confirming the Debtor’s chapter 13 plan [Docket 22] (“Plan”). The Plan provides that the City’s secured claim for water charges will be paid in regular monthly payments in the amount of \$26.83; see Plan, § 3.2. In part, Section 3.2 of the Plan provides,

For secured claims of governmental units, unless otherwise ordered by the court, the value of a secured claim listed in a proof of claim filed in accordance with the Bankruptcy Rules controls over any contrary amount listed below. For each listed claim, the value of the secured claim will be paid in full with interest at the rate stated[.]

The City's claim is secured by the real property located at 10901 South Green Street in Chicago (the "Property"). Section 3.1 of the Plan provides in part:

If relief from the automatic stay is ordered as to any item of collateral listed in this paragraph, then, unless otherwise ordered by the court, all payments under this paragraph as to that collateral will cease, and all secured claims based on that collateral will no longer be treated by the plan.

The Property is listed as collateral in Section 3.1, in connection with a mortgage claim of another creditor.

Another creditor obtained an order modifying the automatic stay on March 6, 2019. Lifting the stay as to a piece of property does not by itself affect any interest in property, and specifically does not affect the secured status of any creditor. Relief from the stay does not mean that a foreclosure will occur or that property will be transferred away from the debtor prior to conclusion of the Chapter 13 case.

Nevertheless, as a result of that order and the language in Section 3.1 of the Plan, no secured claims related to the Property are entitled to payment, including the City's, even though the debtor listed the City's debt in 3.2 intending that the claim be paid in full.

Moreover, pursuant to 11 U.S.C. § 1328(a), because under Section 3.1 the City's claim is no longer treated in the Plan, it will not be discharged. (Debtor receives a

discharge “of all debts provided for by the plan[.]”) This, again, appears to be contrary to the intended effect of confirmation of the Plan.

11 U.S.C. § 1329(a)(1) provides that a confirmed plan may be modified to increase or reduce the amount of payments on claims of a particular class of creditors. Given the unintended negative effects of Section 3.1, the City asks that the plan be modified to continue treating the claims of other creditors with interests in collateral even if one creditor gets relief from the stay, increasing payments to that class of creditors back up to the amounts originally set in the Plan. All creditors will receive the payment on their claims contemplated by the Plan as confirmed.

Wherefore, the City respectfully requests entry of an order modifying the Plan to maintain treatment of secured claims with interests in collateral as to which the stay is or may be lifted.

Dated: June 9, 2021

Respectfully submitted,

THE CITY OF CHICAGO

Celia Meza
Corporation Counsel

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Assistant Corporation Counsel - Senior
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